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TEXTS & GUIDES  
FOR S192 APP to BBC

— On Sat, 7/5/11, HC <ycx26@dial.pipex.com> wrote:

From: HC <ycx26@dial.pipex.com>  
Subject: draft letter  
To: dale.farm@btinternet.com, sheridancandy@googlemail.com  
Date: Saturday, 7 May, 2011, 21:10

Hi

draft letter to Basildon.. I'm also doing one (draft) to Francis Maude as he is responsible for the planning changes.. and requesting transfer of all council pitch stock to a Roma organisation.. saw Marc Willers on friday we beat SNDC again..

lol

stuart

Dear Sirs / Madam,

We have been instructed by the Dale Farm Residents Association and Gypsy Council to examine issues associated with the lawfulness of the last use of land at Dale Farm. This relates in particular to::

(1) Operational Development - Planning enforcement appeals:  
T/APP/C/92/V1505/622380 - 90, 622392-419 and 629011-13. These appeals were heard in April 1994 and decision notices issued in May 1994;

and

(2) the Certificate of Lawfulness that established the use of part of the land known as Dale Farm for the storage and breaking of motor vehicles, the sale of parts; and dealing in scrap metals.

It is recognised that these events all occurred a long time ago

It is also recognised in the Inspectors Report for planning appeal APP/V1505/A/07/2043406 that there is some dispute as to the last lawful use (paragraph 20) of at least some of the land [1].

it states in AGENDA ITEM 11 of a report to the Development Control and Traffic Management Committee of Basildon Council dated 05 June 2007 that:

In 1992 the Council served a total of 42 Enforcement Notices against various unauthorised commercial activities on land at Dale Farm. Appeals were lodged against these notices and they were the subject of a Local Public Inquiry, which was held in April 1994. The appeals were dismissed with the issue of the Inspector's decision letter dated May 1994 and compliance with the notices was subsequently achieved.

My reading of this statement of Basildon Council dated 05 June 2007 is that all breaches of planning control leading to the appeal of enforcement notices APP/C/92/V1505/622380 - 90, 622392-419 and 629011-13 were fully complied with. i.e. all alleged breaches of planning control were rectified.

There is a continual thread in all of the various appeal decisions related to the unauthorised use of Dale Farm as a Gypsy and Traveller site that:

- (i) hard-standing was already in place when the land was occupied for use as a Gypsy and Traveller site;
- (ii) it was lawful to store vehicles on the site;

#### Operational Development

It is apparent from both photographic evidence [2] and the testimony of traveller's that there is hard-standing on site that has been in place for much longer than its occupation as a traveller site. It would appear that the hard-standing was established in the late 1980s at the latest. The establishment of hard standing is development as identified by s55 Town and Country Planning Act 1990 as amended (TCPA).

However, s171B (1) TCPA provides that:

Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

There appears to have been no further action taken against the hard-standing on the site between 1994 and 2001/2002.

It appears to be clear from the Council's own report of 05 June 2007 that no enforcement action was initiated against the hard-standing established on site as part of the enforcement action where a decision was made in 1994. This hard standing must be lawful because of the provisions of 171(B)(1) TCPA. This issue appears to have never been addressed properly in any of the various appeals made by the Travellers to the Secretary of State, and Basildon in its enforcement notices issued after 1994 appears to have failed to differentiate between the lawful areas of hard-standing, and those areas of hard-standing that are potentially unlawful.

We have carried out a fairly detailed survey of the hard standing on the 'Dale Farm' site. There are few doubts that there are large expanses of hard standing that must be lawful, as well as other areas where existing lawful hard standing has been improved (i.e. overlain with new hard standing).

In a few instances it has been identified that hard standing has been established on land where no hard standing dating from before 1994 was established. The later includes four pitches.

Would it be possible for Basildon to provide details of its understanding of the extent of the lawful hard-standing at Dale Farm, so that we can check this against our own survey results. This will also enable if required appeals under s192 TCPA.

I have attached a plan based on the Council's report of March 2007 [3], as well as an aerial photograph mapped onto these pitches showing extensive areas of hard-standing, and use of the same [2]. Would it be possible for the Council to identify

on the plan the areas where hard-standing is lawful. This should identify which pitches that have hard standing that is lawful and established as part of previous use of the land.

### Lawful Use

There is an existing lawful development certificate affecting some of the land. The use that is lawful is identified by the Secretary of States Inspector in report APP/V/1505/07/2043406 as being;

storage and breaking and motor vehicles; the sale of parts; and dealing in scrap metals.

Would it be possible for the Council to identify on the attached plan the land benefiting from this certificate. The Certificate as far as we are aware has never been revoked.

It is acknowledged that use of some of the land for residential use is unlawful. This is based on need rather than lawfully permitted use under the planning acts. Obviously, if the land is vacated (ceases to be used residentially) it would revert to its previous use storage of motor vehicles (including caravans).

### Conclusion

The issues are of some importance as they will enable transparent identification of any structures (operational development) against which the Council might take lawfully take enforcement action, and also identification of any changes of use against which the Council might lawfully take enforcement action.



— On Fri, 6/5/11, HC <ycx26@dial.pipex.com> wrote:

From: HC <ycx26@dial.pipex.com>  
Subject: Re: Dale Farm 192  
To: "Dale Farm" <dale.farm@btinternet.com>  
Cc: sheridancandy@googlemail.com, i.hamblin@dglaw.co.uk  
Date: Friday, 6 May, 2011, 9:36

Hi Gratton

The stages are:

a) the hardstanding is lawful.. and can revert back to its last lawful use (scarp yard etc). these are the areas of hardstanding that are lawful.. and were in place for over four years before the issue of said notices and its unlawful use and here is our proof..

we need to check to basildon did not take enforcement action against the hard standing whilst it was a scrap yard.

There have been some areas of hardstanding developed by residents.. these are here.. but the development has been minimal.. so there is no need to do anything..

b) as the hardstanding is lawful it can be used for storage of vehicles including caravans.. cars etc.. which was the last lawful use.. here is the evidence that the land was used for storage of these things.. and that this occurred for over four years.. prior to its unlawful use

c) there is then some stuff about an unlawfully bricked in storage container.. and a building coloured blue by one Richard Sheridan appeal 3 of the 2003 set.. the Council would be well within its rights under the OD notices to take enforcement against these structures.. but only these structures... HAVE THESE BEEN COMPLIED WITH ???

A s192 should deal with the operational development enforcement notices..

NOTHING can be done about the material change of use notices..

i.e. using said vehicles stored lawfully on hardstanding established lawfully for residential occupation... these pitches are being occupied unlawfully.. which then takes you to all the data being collected by basildon.

if said vehicles cease to be occupied unlawfully then said occupants are homeless.. and the Council needs to meet its duties..

this means that provided DF gets a s192 all that needs to happen is for constant & co to remove the people and/or for the people to walk of.. and say house us.. the Council can't touch the land as it is all lawful.. there is nothing for them to take enforcement action against... and the Council will have entered into a void contract..

The photos show that a very strong case can be made for identification that the hardstanding is lawful.. and the aerials show this as well.. as well as the fact that it is lawful to store vehicles..

I also spent most of yesterday on phone with the clerk of Mr J Briggs.. who is making a decision aka s178 in relation to Denton maybe today.. and appears to be quite



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## Re: planning application

Friday, 6 May, 2011 8:56

From: "HC" &lt;ycx26@dial.pipex.com&gt;

To: "Dale Farm" &lt;dale.farm@btinternet.com&gt;

Cc: sheridancandy@googlemail.com

2 Files (722KB) | Download All



ENCLOSURE



designacc..

No a trad one (£335)

you will find the documents at planning portal

<http://www.planningportal.gov.uk/PpApplications/loginRegister.jsp>

user name: turtle

pwd: turtle

I would rather have done a s192.. but candy and I are not the lawyer who is going to have to defend it..

after appeal etc.. it introduces more delay.. and more cost.. as in this instance I would reckon that we will get 2000 + petition + about 10 objections.. as well as Council trying to work out how they gave planning permission.. and then sought reasons not to.. it is a bit awkward for them.. and the location is not on a sports field etc.. it is on unoccupied (and unused) HCA land..

anyway imogen has the tool she needs in case the Council do issue a s178... as the gardeners lane proposal should be very difficult for the council to reject.. attached..

we could not hold of any longer.. as the politicians are back in control..

I also think that we need to do a s192 for Dale Farm..

s192.. we have to make the case.. and there will from the aerals be at least 4 pitches lost... (but that is minimal.. and there ill be no loss as what are 4 pitches with 50 legit ones surrounding them.. so it does not count as development) there is no great problem about new hardstanding laid on the old hardstanding.. as that is not development under s55.. it is an

improvement.

what we have to do is make a case.. that there has not been development as defined by s55.. the hardstanding does not just have to be concrete.. and what we are looking for is greater than 50 per cent of land area of pitch with hard standing prior to 2002..

so If a full case is to be made we need to do a full survey warts and all.. with a text accompanying each.... careful photography and a complete survey is probably the only way.. as we need to be absolutely watertight..

brick paving on existing hardstanding = no problem as raised to level .. does carbon dating give each year.. I thought there was a fair amount of error ? plus or minus 10 years +

a s192 can go in after any 178 and would require careful examination of any contract that Basildon might have entered into with Constant & Co.. to ensure that the contract did not over-reach itself... take action against lawful development.

stuart

Hi Stuart, Great to have the news that the Planning App (a 192?) has gone in for Gardiners Lane South.

I spent yesterday at Dale Farm in the company of architect Ian Abley and together we made an extensive examination of the concrete (aka hardstanding).

I am sending you ten of the photos (there are 28 in all), with Ian in a couple of them for good measure.

In addition Ian says that we can have samples of the concrete carbon dated.

I can now write a statement along the lines ..

"Accompanied by a qualified architect, Mr Ian Abley, I have undertaken a survey of the concrete which covers continuous and extensive areas of the now 54 separate properties known as Dale Farm (East). "

The statement will cover all the properties shown in the photographs, and others.. As you will see some photos show how the concrete extends over three or four properties... and I can include measurements.

I can also ask Ian to make a supporting

statement.

I hope this will be enough evidence to back up a 192 for Dale Farm.

Grattan

--- On Thu, 5/5/11, HC <[ycx26@dial.pipex.com](mailto:ycx26@dial.pipex.com)> wrote:

From: HC <[ycx26@dial.pipex.com](mailto:ycx26@dial.pipex.com)>  
Subject: planning application  
To: [sheridancandy@googlemail.com](mailto:sheridancandy@googlemail.com)  
Cc: [i.hamblin@dglaw.co.uk](mailto:i.hamblin@dglaw.co.uk), [dale.farm@btinternet.com](mailto:dale.farm@btinternet.com)  
Date: Thursday, 5 May, 2011, 14:20

Hi

Planning application submitted.. the documents can be accessed at Planning Portal

User name: turtle  
password: turtle

next bit is for candy

A cheque payment of £335.00 is now due. Please read the following instructions carefully:

1. Write a cheque payable to Basildon District Council
2. Clearly mark the application reference number on the back of the cheque: 1465599

3. Post the cheque as soon as possible to Basildon District Council

Basildon Council  
Planning Services  
St Martin's Square  
Basildon  
ESSEX  
SS14 1DL

Lol

Stuart

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